

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.31570 of 2016 and 39198 of 2017

COMMON ORDER:

Heard counsel for the petitioner and the Government Pleader for Assignment appearing for respondents.

2. Petitioner has filed W.P.No.31570 of 2016 for deletion of the land in survey No.524, which was assigned to his predecessor in title prior to 1954, from the list of prohibitory properties communicated by the District Collector, Chittoor to Sub-Registrar, Madanapalle Mandal. He filed W.P.No.39198 of 2017 challenging the action of the Sub-Registrar, Madanapalle in not receiving and entertaining the Deed of Conveyance sought to be executed in respect of the subject property and for a direction to the Sub-Registrar, Madanapalle to receive and register the same.

3. Petitioner contends that the subject property of Acs.6.28 cents originally belongs to one Sandireddy Changanna, who had been in possession and enjoyment of the said property having shown to be the title holder in RH Register prior to 1947; that he sold the property in favour of N.Venkat Ramana Reddy and Gangarapu Sridevamma on 11.12.1946 under registered sale deed No.476/1947; and ultimately, petitioner purchased the same under an agreement of sale dt.13.06.2016. Petitioner contends that when he approached the Sub-Registrar to obtain the

valuation certificate on 13.06.2016, so that he may get sale deed registered from his vendor, the Sub-Registrar informed him that the Tahsildar had communicated the list of properties indicating that the subject land is prohibited from registration.

4. Petitioner contends that since the land had been assigned prior to the issuance of G.O.Ms.No.1142, dt.18.06.1954, there is no condition prohibiting alienation of the said land and it could not be included in the prohibitory list communicated by the 2nd respondent to the 5th respondent. Therefore he contends that the inclusion of the said property in the prohibitory list by the District Collector, Chittoor is illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India and the Sub-Registrar(5th respondent) cannot refuse to register the Conveyance Deed in respect of the subject land on the basis of the said list.

5. The Tahsildar, Madanapalle (4th respondent) had filed a counter admitting that the subject land was assigned prior to 1954.

6. Though copy of the assignment deed was specifically directed to be produced by the respondents on 11.12.2017, it is not produced and only a Proforma of the D-Form patta is produced. Had the copy of the assignment deed been

produced, it would indicate whether there is any condition prohibiting alienation in the grant or not.

7. This suppression of documents by the respondents cannot be countenanced.

8. Admittedly, G.O.Ms.No.1142, dt.18.06.1954 introduced the condition prohibiting alienation in assignment for the first time and prior thereto, there is no such condition and the assigned land was freely transferable.

9. This legal position is not disputed by the Government Pleader for Assignment. Even the Proforma of the D-Form patta produced by the respondents along with the counter affidavit mentions in condition No.3 only prohibition from alienating the land to foreigners and not to the Indian Citizens.

10. Though a plea is raised in the counter affidavit that the land in question was transferred into 'gayalu' in certain proceedings issued in 1930, still the same could not have been included in the list of prohibited properties communicated by the District Collector to the Sub-Registration, when there was assignment of it prior to 1954.

11. Therefore, the W.P.No.31570 of 2016 and W.P.No.39198 of 2017 are both allowed. The inclusion of the subject land in the list of prohibited properties

communicated by the District Collector, Chittoor(2nd respondent) to the Sub-Registrar, Madanapalle(5th respondent) is held illegal, arbitrary and violative of articles 14 and 300A of the Constitution of India; the 2nd respondent is directed to forthwith delete the subject land from the said list and the 5th respondent is directed to accept the documents presented by the petitioner for the purpose of registration and register the same in accordance with the provisions of the Registration Act, 1908 and the Indian Stamp Act, 1899 within a period of four (04) weeks of the presentation of the documents by the petitioner. The 1st respondent shall also pay costs of Rs.2,000/- to the petitioner.

12. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

20th December, 2017.

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